

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

VALIANT LEON WHITE,

Petitioner,

v.

Case Number 12-13680
Honorable Sean F. Cox

MARY BERGHUIS,

Respondent.

**ORDER DENYING PETITIONER’S RENEWED MOTION TO REMAND FOR
INDEPENDENT LAB TEST AND FOR EVIDENTIARY HEARING**

Petitioner Valiant Leon White is a state prisoner who seeks a petition for a writ of habeas corpus pursuant to 28 U.S. C. § 2254. This matter comes before the Court on Petitioner’s “Renewed Motion to Remand for Independent Lab Test and for Evidentiary Hearing.” For the reasons stated below, the Court denies the motion.

Petitioner was convicted by a Wayne County Circuit Court of possession with intent to deliver 50-450 grams of cocaine, possession with intent to deliver less than 5 kilograms marijuana, and possession with intent to deliver less than 50 grams heroin. His convictions and sentences were affirmed by the Michigan Court of Appeals. *People v. White*, No. 300692, 2012 WL 669851 (Mich. App. March 1, 2012), *lv. den.* 492 Mich. 856 (2012).

Petitioner then filed his pro se petition for writ of habeas corpus. At the same time he filed his federal petition, Petitioner moved for an evidentiary hearing and expansion of the record. The Court denied Petitioner’s motion at that time without prejudice because it was premature before Respondent’s answer and filing of the Rule 5 materials. Petitioner has now renewed his motion following the filing of the state’s response and Rule 5 materials.

Petitioner's renewed motion seeks an evidentiary hearing and independent lab testing to show Petitioner was prejudiced as the result of government misconduct and the introduction of tainted evidence. He seeks independent lab testing and an evidentiary hearing to determine whether the Detroit police planted tainted evidence, to test whether the drugs offered into evidence against him were actually cocaine, heroin or marijuana and whether they are actually the drugs alleged in the complaint, to determine who forged a signature on the complaint against him, and to determine how the Detroit police fabricated lab reports without a lab. Petitioner also seeks an evidentiary hearing into the traffic stop that resulted in the discovery of the drugs that were entered into evidence against him at trial.

The Court will again deny Petitioner's renewed motion for an evidentiary hearing and independent lab testing. Petitioner raised his habeas claims before the state court, and they were adjudicated on the merits. *See White*, 2012 WL 669851. Petitioner brings his habeas claims under 28 U.S.C. §2254(d)(1). When a habeas claim has been adjudicated on the merits by a state court, federal habeas review "is limited to the record . . . before the state court" at the time of its decision. *Cullen v. Pinholster*, __U.S. __, 131 S. Ct. 1388, 1398 (2011). Any evidence produced in an evidentiary hearing in federal court would be irrelevant and have "no bearing on §2254(d)(1) review." *Id.*, 131 S. Ct. at 1400. Furthermore, to the extent that the state court denied review because Petitioner had procedurally defaulted his claims, this may be determined by the existing record. *See Schriro v. Landrigan*, 550 U.S. 465, 474 (2007) (evidentiary hearing not required on issues that can be resolved by reference to the state court record).

Accordingly, it is **ORDERED** that the Petitioner's "Renewed Motion to Remand for

Independent Lab Test and for Evidentiary Hearing” [dkt. # 14] is **DENIED**.

Dated: October 10, 2013

S/ Sean F. Cox
Sean F. Cox
U. S. District Court Judge

I hereby certify that on October 10, 2013, the foregoing document was served upon counsel of record by electronic means and upon Valiant White by First Class Mail at the address below:

Valiant White 225440
Alger Maximum Correctional Facility
Industrial Park Drive
P.O. Box 600
Munising, MI 49862

Dated: October 10, 2013

S/ J. McCoy
Case Manager